

**Before the
FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of :
Number Resource Optimization : **CC Docket No. 99-200**

**REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**

On October 28, 2004, the Federal Communications Commission (FCC) released a Public Notice in the above-captioned proceeding inviting comments regarding the Oklahoma Corporation Commission's (Oklahoma's) petition for delegated authority to implement additional number conservation measures. Oklahoma's petition proposes that the FCC expand the scope of the State's delegated authority to include mandatory implementation of thousands-block pooling for all rate centers, including those outside of the top 100 metropolitan statistical areas (MSA), in which two or more carriers operate that have implemented local number portability (LNP). Oklahoma maintains that such delegated authority will allow States to more efficiently assign existing numbering resources, minimize costs to subscribers, and avoid premature area code (NPA) exhaust. Similar petitions have been filed by the West Virginia and Nebraska Commissions.

NARUC is a nonprofit organization founded in 1889. Congress and the courts have consistently recognized NARUC as a proper entity to represents the generic interests of the State public utility commissions.

In the Federal Telecommunications Act,¹ Congress references NARUC as “the national organization of the State commissions” responsible for economic and safety regulation of the intrastate operation of carriers and utilities.²

Initial Comments responding to Oklahoma’s petition were filed November 29, 2004. The National Association of Regulatory Utility Commissioners (NARUC) respectfully files these reply comments endorsing generally the Oklahoma request and comments/petitions filed by the Public Utilities Commission of Ohio, and other commissions, in support of Oklahoma.

DISCUSSION

At the NARUC’s July 2004 summer meetings, NARUC adopted a Telecommunications Policy Document. Among the principles specified in that policy document are the following:

11.1. State Authority: States and NANPA need enforcement authority, and states need the ability to participate in policy decisions relating to the implementation of conservation measures.

11.2. Industry Obligations: Industry should be accountable for use of public numbering resources through specific rules and reporting requirements. Carrier choice of conservation measures should not be allowed.

11.3. Unnecessary Splits: Unnecessary area code splits should be avoided, in part through adoption of enforceable number conservation measures.

¹ *Communications Act of 1934*, as amended by the *Telecommunications Act of 1996*, 47 U.S.C. §151 *et seq.*, Pub.L.No. 101-104, 110 Stat. 56 (1996) (West Supp. 1998) (“Act” or “1996 Act”).

² See 47 U.S.C. § 410(c) (1971) (NARUC nominates members to FCC Joint Federal-State Boards which consider universal service, separations, and related concerns and provide formal recommendations that the FCC must act upon); *Cf.* 47 U.S.C. § 254 (1996) (describing functions of the Joint Federal-State Board on Universal Service). *Cf. NARUC, et al. v. ICC*, 41 F.3d 721 (D.C. Cir 1994) (where the Court explains “...Carriers, to get the cards, applied to...(NARUC), an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the "bingo card" system.)

Based on these principles, NARUC supports Oklahoma's request for additional delegated authority to order mandatory thousands-block number pooling in the "580" Numbering Plan Area (NPA). Without pooling in the more rural areas of a State, many numbers are stranded in incumbent local exchange company (ILEC) rate centers with few access lines and become unavailable for assignment to other providers. If these stranded numbers are instead donated to a pool, they could be assigned by commercial mobile radio service (CMRS) providers, competitive local exchange companies (CLECs), as well as other service providers using new technologies. NARUC agrees with Oklahoma that allowing States to mandate pooling in local number portability (LNP)-capable rate centers outside of the top 100 MSAs will delay the need for area code relief by utilizing the numbering resources more efficiently.

Statistics provided by the North American Numbering Plan Administrator (NANPA) and the National Pooling Administrator during the FCC's November 4, 2004 Numbering Symposium, clearly demonstrate that optimization efforts, including LNP and number pooling, significantly and successfully delay both NPA and NANP (North American Numbering Plan) exhaust. Where technically feasible, the demand for full central office codes of 10,000 numbers (NXX) has now shifted to a demand for numbers in blocks of a thousand (NXX-X). This helped eliminate stranded numbers that would be likely be unavailable for assignment if full NXX codes were issued. As a result of the implementation of number pooling, the number of NXXs opened to replenish pools nationally is 2,890, while the number of NXX prefixes saved as a result of thousand-block number pooling is 12,617. Indeed, the use of number portability and pooling has allowed the NANPA to extend the forecasted national exhaust date from 2012 to 2035.³

³ Statistics reported by NeuStar during the FCC webcast of its Numbering Symposium on November 4, 2004.

Both Ohio, in its initial comments, and Oklahoma, in its petition, present compelling statistics detailing the need for additional authority. Both Oklahoma and Ohio allege the demand for numbering resources is increasing in the rural areas as local competition begins to move into rate centers outside of the top 100 MSAs. They also point out that it is difficult to get carriers to participate in voluntary number pooling in LNP-capable rate centers outside the top 100 MSAs.⁴

In Ohio's largest and most rural NPA ("740"), which encompasses almost half of Ohio's 88 counties, 155 "thousands" blocks were assigned from the numbering pools in 2004 (through the end of November), in those portions of the NPA where either optional or mandatory pooling has been implemented. Without number pooling, instead of the 155,000 numbers allocated in 2004, 1,550,000 numbers would have been assigned. During the same period in the "740" NPA, *41 full central office codes were assigned*. If the Ohio Commission were authorized to mandate number pooling in those areas outside the top 100 MSAs, it is reasonable to assume that similar benefits would be experienced *throughout the NPA*, including in those areas in which the 41 NXX codes were assigned. Optional pooling is certainly more beneficial than no pooling. However, where pooling is optional, some carriers may not be prepared to donate to the number pools in a timely manner and may not take their forecasting obligations seriously. Moreover, providers in optional areas may not have conducted the research necessary to immediately donate clean or slightly contaminated blocks to the pool when requested by the Pooling

⁴ Carriers are reluctant to participate in voluntary number pooling in LNP-capable rate centers outside the top 100 MSAs. In Ohio's "740" NPA, discussed, *infra*, only 52 of the 187 rate centers have mandatory pooling and 107 rate centers have optional pooling. The remaining 28 rate centers have no pooling capability, *although at least 17 of these rate centers are LNP capable*. This incomplete deployment of LNP exists despite the fact that the "740" NPA is almost entirely served by large ILECs such as SBC Ohio and Verizon North and has only one small LEC, serving one rate center. Obviously some carriers' decisions not to participate in optional pooling has resulted in the 41 requests for full NXX codes discussed, *infra*.

Administrator. This situation causes a delay in providing numbering resources to a requesting carrier and may force that carrier to have to request a full central office code, thus, eliminating the benefits of pooling and the efficient use of numbering resources. If mandatory pooling existed in the currently optional rate centers, service providers would be required to assess their needs in a timely manner. As a result, blocks of numbers would be donated efficiently and would be available to be assigned when needed. Mandatory pooling would also allow the Pooling Administrator, as well as the State and federal regulators, to ensure compliance with the FCC pooling mandates and perform audits where appropriate.

CONCLUSION

To optimize the use of nation's limited numbering resources; the FCC should fully utilize all of the tools available, including LNP and porting. By mandating pooling in all LNP-capable rate centers now, policymakers will be in a much better position to address numbering demands from new technologies, services, and players. NARUC urges the FCC to grant Oklahoma's petition for authority to implement additional number conservation measures and to extend such delegated authority to all States.

Respectfully submitted,

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